

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:04CR62

UNITED STATES OF AMERICA

VS.

BETTY ODESSA DOVER

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ORDER

THIS MATTER is before the Court *sua sponte*.

The Defendant was sentenced by the undersigned on December 10, 2004, to a prison term of 120 months for possession with intent to distribute cocaine base. **Judgment in a Criminal Case, filed January 3, 2005.** On April 1, 2009, the Probation Office filed a Supplement to the Defendant's presentence report pursuant to the Crack Cocaine Guideline Amendment. **Supplement to the Presentence Report, filed April 1, 2009.** The Probation Office advises that pursuant to Guidelines § 5G1.1, the sentence imposed may not be below the statutorily required minimum sentence. ***Id.* at 1.** If Amendment 706 had been in place at the time of Defendant's sentence, the guideline range would have been the mandatory

minimum sentence of 120 months; therefore, the new amendment has no effect on the Defendant's sentence. *Id.* Because this recommendation is adverse to the Defendant, the Court will require counsel be appointed to represent the Defendant¹ and appointed counsel shall file an appropriate response.

IT IS, THEREFORE, ORDERED that the Federal Defender appoint counsel for the Defendant forthwith.

IT IS FURTHER ORDERED that appointed counsel file response to the Supplement to the Presentence Report within 45 days from entry of this Order.

Signed: April 3, 2009



Lacy H. Thornburg
United States District Judge



¹ The Court notes the Defendant filed a *pro se* motion for reduction of sentence in February 2008.